

BUREAU OF AUTOMOTIVE REPAIR

**INITIAL STATEMENT OF REASONS**

**HEARING DATES:**

May 31 and June 2, 2006

**SUBJECT MATTER OF  
PROPOSED REGULATIONS:**

Lamp and Brake Inspections, Adjustments and  
Certifications; Stations and Adjusters

**SECTIONS AFFECTED:**

Article 2 (commencing with § 3305), Article 3  
(commencing with § 3315), and Article 4  
(commencing with § 3320) of Chapter 1 of Division  
33 of Title 16 of the California Code of Regulations

**SPECIFIC PURPOSE OF THE REGULATORY PROPOSAL:**

The proposed regulatory action will establish, in regulation, the specific inspection, adjustment and repair procedures that must be followed before a Brake or Lamp Certificate may be issued. This will help to ensure vehicle owners' confidence that their vehicles have been inspected, adjustments have been made and any necessary repairs have been performed to validate that their vehicles' lamps and brakes are safe, comply with Vehicle Code requirements and meet vehicle manufacturers' specifications. This is consistent with the Bureau of Automotive Repair's (Bureau's) principal mandate to protect the interests of the public.<sup>1</sup> This action is also intended to provide stations and adjusters with clear written criteria that they know must be followed before a Certificate of Adjustment may be issued and would inform them, in advance, that failure to comply could result in an enforcement action. Finally, the proposed action is intended to make compliance easier for the Bureau to assess and achieve, and would facilitate enforcement and dispute resolution, when necessary.

This proposal will make changes to existing regulations found in Articles 2, 3 and 4 of Chapter 1 of Division 33 of Title 16 of the California Code of Regulations, as follows:

Article 2. Licensing of Official Stations and Adjusters:

1. Section 3305 will be amended to require that all adjustments, inspections, servicing and repairs of lamp and brake systems be performed in accordance with the Bureau

---

<sup>1</sup> Section 9880.3 of the Business and Professions Code mandates that the protection of the public shall be the highest priority of the Bureau in exercising its licensing, regulatory, and disciplinary functions. Further, that whenever the protection of the public is inconsistent with other interests sought to be promoted the protection of the public shall be paramount.

*Handbook for Brake Adjusters and Stations*, the Bureau *Handbook for Lamp Adjusters and Stations*, and current standards, specifications, directives, manuals, bulletins and instructions issued by vehicle and device manufacturers, as applicable. In addition, the February 2003 edition of the Bureau-published handbooks will be incorporated by reference.

Other minor technical, grammatical, editorial or conforming changes will also be made throughout this section. These changes will have no regulatory effect.

2. Section 3306 will be amended to correct and clarify references to the forms that are to be submitted to the Bureau when a licensee changes its business name or address, or when there is a change of ownership. The specific forms will be identified and incorporated by reference.

Other minor technical, grammatical, editorial or conforming changes will also be made throughout this section. These changes will have no regulatory effect.

3. Additional minor technical, grammatical, editorial and conforming changes will also be made in Sections 3307 through 3310. These changes will have no regulatory effect.

#### Article 3. Official Lamp Adjusting Stations:

1. Minor technical, grammatical, editorial and conforming changes will be made in Sections 3315 and 3316. These changes will have no regulatory effect.

#### Article 4. Official Brake Adjusting Stations:

1. Minor technical, grammatical, editorial and conforming changes will be made in Sections 3320 and 3321. These changes will have no regulatory effect.

### **FACTUAL BASIS/RATIONALE:**

#### **I. General Background.**

The Bureau was established within the California Department of Consumer Affairs (DCA) in 1972 with the enactment of the Automotive Repair Act. The Bureau was created by Chapter 1578, Statutes 1971 (Senate Bill 51, Beilenson), which mandated a statewide automotive repair consumer protection program. In the furtherance of its mandate, the Bureau administers statewide licensing and enforcement programs.

Through its statewide offices, the Bureau conducts consumer protection services related to the automotive repair and Smog Check programs. Bureau representatives register, license and regulate automotive repair dealers, lamp and brake stations and adjusters, and Smog Check stations and technicians. The Bureau accepts and mediates complaints from the public, investigates violations of the Automotive Repair Act, Smog Check laws, and associated

regulations. When appropriate, cases are referred to the Attorney General's office for administrative action, or to law enforcement authorities for civil or criminal prosecution. The Bureau shares the commitment of the DCA to ensuring that consumers are provided information about licensees and registrants in a timely, fair and equitable manner.

## **II. Lamp & Brake Inspection & Certification Program.**

The Bureau inherited the Lamp and Brake program in the early 1970's. Previously, the California Highway Patrol (CHP) administered the examinations for the Brake and Lamp Adjusters, and licensed the Brake and Lamp Stations.

California vehicle owners are required to obtain brake and lamp Certificates of Adjustment upon re-registering a vehicle that has been declared a salvage vehicle by the Department of Motor Vehicles (DMV). Also, specially constructed vehicles need to have lamp and brake Certificates of Adjustment before they can be initially registered in California. Consumers are also directed to obtain brake and/or lamp Certificates of Adjustment when they receive a "fix-it" ticket from law enforcement. Lamp and brake Certificates of Adjustment are also issued to an applicant for an authorized emergency vehicle permit.

When California motorists are required to obtain a brake and/or lamp Certificate of Adjustment they take their vehicle to a licensed Brake and/or Lamp station to have the vehicle inspected. The licensed adjuster indicates by checking boxes that those components are in a satisfactory condition or adjustments of required equipment have been done. If the vehicle needs repairs, in order to pass, then the vehicle owner must give authorization for the repairs. Once the vehicle passes inspection then a brake and/or lamp Certificate of Adjustment is issued. The certificate is signed by the adjuster and the adjuster's license number and the station's license number are recorded on the certificate.

The Vehicle Code (VC) contains provisions that specifically relate to lighting equipment (VC, Div. 12, Ch. 2, §§ 24250 – 26106) and brakes (VC, Div. 12, Ch. 3, §§ 26301 – 26522), however there are no specific criteria in statute or regulation as to what constitutes the minimum requirements for an inspection that results in the issuance of a lamp or brake Certificate of Adjustment. There are currently no regulations that further define the VC provisions, reference vehicle manufacturers' specifications or specify minimum requirements that must be met in an inspection.

Adjusters are required to sign a Certificate of Adjustment, under penalty of perjury, stating that all items inspected are of an approved type, and that the applicable inspections have been performed, and necessary adjustment or repair have been made, as specified by the Bureau and the vehicle manufacturer. However, BAR does not have any specific inspection, repair or adjustment procedures in regulation for issuing lamp or brake Certificates of Adjustment.

Currently, the Bureau has regulations (16 CCR §§ 3316 and 3321) that state what tools and equipment are required by the different classes of stations, however the Bureau has nothing in regulation that defines the inspection/adjustment procedures that need to be performed in order to check off the appropriate boxes on the certificate before a brake or lamp Certificate of

Adjustment is issued. The Bureau has a *Handbook for Lamp Adjusters and Stations* and a *Handbook for Brake Adjusters and Stations*. Currently these handbooks are “Bureau recommendations” but need to be incorporated by reference into regulation as official Bureau manuals to be followed when conducting brake and lamp inspections for the issuance of Certificates of Adjustment.

### **III. Proposed Regulatory Action.**

Benefit to California Motorists: With specific inspection procedures in regulation that prescribe the processes that must be followed before a brake or lamp Certificate of Adjustment is issued, vehicle owners would be assured that their vehicles have been inspected, adjustments have been made and any necessary repairs have been performed to validate that their vehicles’ lamps and brakes are safe and meet vehicle manufacturers’ specifications.

Benefit to Lamp and Brake Adjusters and Stations: Stations and adjusters would have criteria in writing (regulation) that they know must be followed before a Certificate of Adjustment could be issued and would know, in advance, that failure to comply could result in an enforcement action.

Benefit to the Bureau: Clear specific regulation would make compliance easier to assess and achieve, and would facilitate enforcement and dispute resolution, when necessary.

### **IV. Incorporation by Reference.**

The incorporation by reference in Section 3305 of the Bureau’s *Handbook for Brake Adjusters and Stations*, February 2003, and *Handbook for Lamp Adjusters and Stations*, February 2003, is appropriate because to publish these documents in the California Code of Regulations (CCR) would clearly be cumbersome, unduly expensive, impractical and unnecessary. These documents consist of approximately 49 pages and 35 pages respectively. These documents are quite technical in nature and their composition makes them difficult to publish in the actual text of the regulation, as they contain various diagrams and forms. The manuals are used primarily by licensed lamp and brake adjusters as reference guides in the performance of lamp and brake inspections, adjustments, and repairs. These manuals mean little to the public in general since they are so technical in nature.

Furthermore, stations and adjusters have ready access to the manuals since they are provided, free of charge, to every licensed lamp and/or brake station upon licensure. Adjuster license applicants also have access to the manuals through the Bureau’s testing contractor, Experior. The Bureau’s Licensing Division and mailroom, Experior and DCA’s Consumer Information Centers all maintain a supply of handbooks to mail out when a candidate requests a copy. Additional copies of the manuals are also available to anyone, licensed or not. The manuals may be purchased from any Bureau field office, or ordered through the Bureau’s Internet Web site, at a nominal cost.

### **UNDERLYING DATA:**

None.

**BUSINESS IMPACT:**

This regulation will not have any adverse economic impact on businesses. This initial determination is based on the following facts or evidence/documents/testimony:

The proposed regulatory action will not have any adverse economic impact on businesses because licensed brake and lamp stations will not be required to do anything differently nor will they be required to obtain and/or use any tools, equipment, handbooks or manuals in addition to what is already required by Sections 3316 and 3321. The proposed regulatory action merely memorializes, in regulation, the brake and lamp inspection protocols routinely followed by the industry today.

**SPECIFIC TECHNOLOGIES OR EQUIPMENT:**

This regulation does not mandate the use of specific technologies or equipment beyond what is currently required and in use.

**CONSIDERATION OF ALTERNATIVES:**

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

No reasonable alternative has been considered, identified or brought to the attention of the Bureau.